

ORDINANCE NO. 48-565

OF THE  
CITY OF WICHITA, KANSAS

AUTHORIZING THE ISSUANCE OF  
NOT TO EXCEED  
\$95,000,000  
HOSPITAL FACILITIES REFUNDING REVENUE BONDS  
SERIES X, 2009  
(VIA CHRISTI HEALTH SYSTEM, INC.)

(Published in *The Wichita Eagle*, December 12, 2009)

ORDINANCE NO. 48-565

AN ORDINANCE AUTHORIZING THE CITY OF WICHITA, KANSAS TO ISSUE ITS HOSPITAL FACILITIES REFUNDING REVENUE BONDS (VIA CHRISTI HEALTH SYSTEM, INC.) IN THE TOTAL AGGREGATE PRINCIPAL AMOUNT OF NOT TO EXCEED \$95,000,000 FOR THE PURPOSES OF REFUNDING CERTAIN OUTSTANDING 1999 HOSPITAL FACILITIES IMPROVEMENT AND REFUNDING REVENUE BONDS; PRESCRIBING THE FORM AND AUTHORIZING EXECUTION OF A BOND INDENTURE BY AND BETWEEN THE CITY AND THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A., AS BOND TRUSTEE; PRESCRIBING THE FORM AND AUTHORIZING THE EXECUTION OF A FIFTH SUPPLEMENTAL SUBLEASE AND OBLIGATION NO. 5A BY AND BETWEEN THE CITY AND VIA CHRISTI REGIONAL MEDICAL CENTER, INC.; PRESCRIBING THE FORM AND AUTHORIZING THE EXECUTION OF A FIRST SUPPLEMENTAL SUBLEASE AND OBLIGATION NO. 5B BY AND BETWEEN THE CITY AND VIA CHRISTI REHABILITATION CENTER, INC.; PRESCRIBING THE FORM AND AUTHORIZING THE EXECUTION OF A SECOND SUPPLEMENTAL SUBLEASE AND OBLIGATION NO. 5C BY AND BETWEEN THE CITY AND MT. CARMEL REGIONAL MEDICAL CENTER, INC.; APPROVING THE FORM OF GUARANTY AGREEMENT AND OBLIGATION NO. 5AA BY AND BETWEEN VIA CHRISTI REGIONAL MEDICAL CENTER, INC. AND THE BOND TRUSTEE; APPROVING THE FORM OF GUARANTY AGREEMENT AND OBLIGATION NO. 5BB BY AND BETWEEN VIA CHRISTI REHABILITATION CENTER, INC. AND THE BOND TRUSTEE; APPROVING THE FORM OF GUARANTY AGREEMENT AND OBLIGATION NO. 5CC BY AND BETWEEN MT. CARMEL REGIONAL MEDICAL CENTER, INC. AND THE BOND TRUSTEE; PRESCRIBING THE FORM AND AUTHORIZING EXECUTION OF A TAX COMPLIANCE AGREEMENT BY AND BETWEEN THE CITY, THE BOND TRUSTEE, VIA CHRISTI HEALTH SYSTEM, INC., VIA CHRISTI REGIONAL MEDICAL CENTER, INC., VIA CHRISTI REHABILITATION CENTER, INC., AND MT. CARMEL REGIONAL MEDICAL CENTER, INC.; PRESCRIBING THE FORM AND AUTHORIZING THE EXECUTION OF A BOND PURCHASE AGREEMENT BY AND BETWEEN THE CITY, VIA CHRISTI HEALTH SYSTEM, INC. AND MORGAN STANLEY & CO INCORPORATED, AS UNDERWRITER OF THE 2009 BONDS.

WHEREAS, the City of Wichita, Kansas (the “Issuer”) is authorized by K.S.A. 12-1740 to 12-1749d, inclusive, and K.S.A. 10-116a, all as amended (the “Act”), to acquire, construct, improve and equip certain facilities (as defined in the Act) for hospital purposes, and to enter into leases and lease-purchase agreements with any person, firm or corporation for said facilities, and to issue

revenue bonds for the purpose of paying the cost of any such facilities, as well as to refund any such revenue bonds previously issued; and

WHEREAS, pursuant to the Act, the Issuer has previously issued certain Hospital Facilities Refunding and Improvement Revenue Bonds, Series IX, 1999 (Via Christi Health System, Inc.), in the aggregate principal amount of \$102,660,000 (the “1999 Bonds”); and

WHEREAS, the Issuer has previously acquired a leasehold interest in certain hospital facilities constituting (i) the Via Christi Regional Medical Center, Inc.-St. Francis Campus and St. Joseph Campus (the “Hospital Facilities”), (ii) the rehabilitation facility operated by Via Christi Rehabilitation Center, Inc. (the “Rehabilitation Facility”), and (iii) the Mt. Carmel Regional Medical Center operated by Mt. Carmel Regional Medical Center, Inc. (the “Mt. Carmel Facility”) (the Hospital Facilities, Rehabilitation Facility and the Mt. Carmel Facility being referred to collectively herein as the “Facilities”); and

WHEREAS, the Issuer, Via Christi Regional Medical Center, Inc. (the “Medical Center”), Via Christi Rehabilitation Center, Inc. (the “Rehabilitation Center”), and Mt. Carmel Regional Medical Center, Inc. (the “Mt. Carmel Center”) now deem it necessary and desirable that the Issuer issue its Hospital Facilities Refunding Revenue Bonds (collectively, the “2009 Refunding Bonds”) for the purpose of refunding the Outstanding 1999 Bonds (the “1999 Refunded Bonds”) and paying a portion of the Costs of Issuance to be incurred in connection with the issuance of the 2009 Refunding Bonds;

WHEREAS, payment of the principal of, redemption premium, if any, and interest on the 2009 Refunding Bonds will be further secured pursuant to the terms of a Master Trust Indenture by and between Via Christi Health System, Inc., the Medical Center, the Rehabilitation Center, and the Mt. Carmel Center, all as members of the Obligated Group, and The Bank of New York Mellon Trust Company, N.A., as Master Trustee (all as supplemented and amended, the “Master Trust Indenture”); and

WHEREAS, the Issuer further finds and determines that it is necessary and desirable in connection with the issuance of said 2009 Refunding Bonds to execute and deliver a Bond Indenture, dated as of December 15, 2009 (the “Bond Indenture”) with The Bank of New York Mellon Trust Company, N.A., as Bond Trustee (the “Bond Trustee”), to execute and deliver a Fifth Supplemental Sublease and Obligation No. 5A, dated as of December 15, 2009 (“Fifth Supplemental Hospital Sublease”), with the Medical Center, as Subtenant; to execute and deliver a First Supplemental Sublease and Obligation No. 5B, dated as of December 15, 2009 (“First Supplemental Rehabilitation Hospital Sublease”), with the Rehabilitation Center, as Subtenant; to execute and deliver a Second Supplemental Sublease and Obligation No. 5C, dated as of December 15, 2009 (“Second Supplemental Mt. Carmel Hospital Sublease”), with the Mt. Carmel Center, as Subtenant; to execute and deliver a Tax Compliance Agreement, dated as of December 15, 2009 (the “Tax Compliance Agreement”), with Via Christi Health System, Inc., the Medical Center, the Rehabilitation Center, the Mt. Carmel Center and the Bond Trustee; and to execute and deliver the necessary Bond Purchase Agreement with Morgan Stanley & Co. Incorporated (the “Underwriter”)

and Via Christi Health System, Inc. (such agreement herein referred to as the “Bond Purchase Agreement”).

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS, AS FOLLOWS:

Section 1. Definition of Terms. All terms and phrases not otherwise defined herein shall have the respective meanings set forth in the Bond Indenture, the Fifth Supplemental Hospital Sublease, the First Supplemental Rehabilitation Hospital Sublease and the Second Supplemental Mt. Carmel Hospital Sublease, as hereinafter authorized and defined.

Section 2. Authority to Refund the 1999 Refunded Bonds. Pursuant to the Act, the Issuer is hereby authorized to provide for the refunding, early redemption and retirement of the 1999 Refunded Bonds in accordance with the terms and provisions of the Bond Indenture, as hereinafter authorized and defined.

Section 3. Authorization of and Security for the Bonds. There are hereby authorized and directed to be issued certain Hospital Facilities Refunding Revenue Bonds in the aggregate the total principal amount of not to exceed \$95,000,000 (the “2009 Refunding Bonds”), as provided in the Bond Indenture, dated as of December 15, 2009 (the “Bond Indenture”), by and between the Issuer and The Bank of New York Mellon Trust Company, N.A., St. Louis, Missouri, as Bond Trustee (the “Bond Trustee”), pursuant to the Act, for the purpose of refunding the 1999 Refunded Bonds and paying the Costs of Issuance to be incurred in connection with the issuance of the 2009 Refunding Bonds. The 2009 Refunding Bonds shall bear such series designation, shall be dated and bear interest, shall mature and be payable at such times, shall be in such forms, shall be subject to redemption and payment prior to the maturity, and shall be issued in the manner as prescribed and subject to the provisions, covenants and agreements as shall be set forth in the Bond Indenture hereinafter authorized and defined. The maturity dates and respective interest rates on the 2009 Refunding Bonds shall be as established by the Bond Purchase Agreement and the true interest cost on such 2009 Refunding Bonds shall not exceed 6.4%. The 2009 Refunding Bonds shall be special limited obligations of the Issuer payable solely from the revenues derived by the Issuer pursuant to the Fifth Supplemental Hospital Sublease, the First Supplemental Rehabilitation Hospital Sublease, the Second Supplemental Mt. Carmel Hospital Sublease or otherwise in connection with the Facilities. The 2009 Refunding Bonds shall not be general obligations of or constitute a pledge of the faith and credit of the Issuer within the meaning of any constitutional or statutory provision and shall not be payable in any manner from taxation.

Section 4. Authorization of Bond Indenture. The Issuer is hereby authorized to enter into and deliver the Bond Indenture, dated as of December 15, 2009 (the “Bond Indenture”), by and between the Issuer and The Bank of New York Mellon Trust Company, N.A., St. Louis, Missouri, as Bond Trustee (the “Bond Trustee”), under which the Issuer shall pledge and assign to the Bond Trustee, for the benefit of the holders of the 2009 Refunding Bonds, the Trust Estate created thereby, all upon the terms and conditions set forth in said Bond Indenture.

Section 5. Sublease of the Hospital Facilities. The Issuer shall sublease the Hospital Facilities to the Medical Center pursuant to and in accordance with the provisions of a Fifth Supplemental Sublease and Obligation No. 5A, dated as of December 15, 2009 (the “Fifth Supplemental Hospital Sublease”), which Fifth Supplemental Hospital Sublease supplements and amends a certain Sublease and Obligation No. 1 dated as of February 1, 1992, as previously supplemented and amended.

Section 6. Sublease of the Rehabilitation Facility. The Issuer shall sublease the Rehabilitation Facility to the Rehabilitation Center pursuant to and in accordance with the provisions of a First Supplemental Sublease and Obligation No. 5B, dated as of December 15, 2009 (the “First Supplemental Rehabilitation Hospital Sublease”), which First Supplemental Rehabilitation Hospital Sublease supplements and amends a certain Sublease and Obligation No. 2B dated as of October 1, 1999.

Section 7. Sublease of the Mt. Carmel Facility. The Issuer shall sublease the Mt. Carmel Facility to the Mt. Carmel Center pursuant to and in accordance with the provisions of a Second Supplemental Sublease and Obligation No. 5C, dated as of December 15, 2009 (the “Second Supplemental Mt. Carmel Hospital Sublease”), which Second Supplemental Mt. Carmel Hospital Sublease supplements and amends a certain Sublease and Obligation No. 2C dated as of October 1, 1999, as previously supplemented and amended.

Section 8. Approval of the Guaranty Agreement and Obligation No. 5AA. The form of the Guaranty Agreement and Obligation No. 5AA, dated as of December 15, 2009, pursuant to which the Medical Center guarantees to the Bond Trustee, for the benefit of the owners of the 2009 Refunding Bonds, the full and prompt payment of its Allocable Percentage of the principal of, redemption premium, if any, and interest of the 2009 Refunding Bonds, is hereby approved.

Section 9. Approval of the Guaranty Agreement and Obligation No. 5BB. The form of the Guaranty Agreement and Obligation No. 5BB, dated as of December 15, 2009, pursuant to which the Rehabilitation Center guarantees to the Bond Trustee, for the benefit of the owners of the 2009 Refunding Bonds, the full and prompt payment of its Allocable Percentage of the principal of, redemption premium, if any, and interest of the 2009 Refunding Bonds, is hereby approved.

Section 10. Approval of the Guaranty Agreement and Obligation No. 5CC. The form of the Guaranty Agreement and Obligation No. 5CC, dated as of December 15, 2009, pursuant to which the Mt. Carmel Center guarantees to the Bond Trustee, for the benefit of the owners of the 2009 Refunding Bonds, the full and prompt payment of its Allocable Percentage of the principal of, redemption premium, if any, and interest of the 2009 Refunding Bonds, is hereby approved.

Section 11. Authorization of Bond Purchase Agreement. The 2009 Refunding Bonds shall be sold and delivered to the Underwriter upon the terms and subject to the provisions of, and the Issuer is hereby authorized to enter into, the Bond Purchase Agreement, by and between the Issuer, Via Christi Health System, Inc. and the Underwriter.

Section 12. Authorization of Tax Compliance Agreement. The Issuer is hereby authorized to enter into a Tax Compliance Agreement, dated as of December 15, 2009 (the "Tax Compliance Agreement"), by and between the Issuer, Via Christi Health System, Inc., the Medical Center, the Rehabilitation Center, the Mt. Carmel Center and the Bond Trustee.

Section 13. Execution of Bonds and Agreements. The Mayor or Vice Mayor of the City of Wichita, Kansas is hereby authorized and directed to execute the 2009 Refunding Bonds and deliver same to the Bond Trustee for authentication for and on behalf of and as the act and deed of the Issuer in the manner provided in the Bond Indenture. The Mayor or Vice Mayor is hereby further authorized and directed to execute and deliver the Bond Indenture, the Fifth Supplemental Hospital Sublease, the First Supplemental Rehabilitation Hospital Sublease, the Second Supplemental Mt. Carmel Hospital Sublease, the Tax Compliance Agreement and the Bond Purchase Agreement for and on behalf of and as the act and deed of the Issuer in substantially the form presented today with such minor corrections or amendments thereto as the Mayor or Vice Mayor shall approve, which approval shall be evidenced by his execution thereof, and such other documents, certificates and instruments as may be necessary or desirable to carry out and give effect to the purposes and intent of this Ordinance. The City Clerk or any Deputy City Clerk of the Issuer are hereby authorized and directed to attest the execution of the Bonds, the Bond Indenture, the Fifth Supplemental Hospital Sublease, the First Supplemental Rehabilitation Hospital Sublease, the Second Supplemental Mt. Carmel Hospital Sublease, the Tax Compliance Agreement and the Bond Purchase Agreement and such other documents, certificates and instruments as may be necessary or desirable to carry out and give effect to the intent of this Ordinance.

Section 14. Further Authority. The Issuer shall, and the officers, agents and employees of the Issuer are hereby authorized and directed to, take such action and execute such other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the provisions of this Ordinance and to carry out, comply with and perform the duties of the Issuer with respect to the 2009 Refunding Bonds, Bond Indenture, the Fifth Supplemental Hospital Sublease, the First Supplemental Rehabilitation Hospital Sublease, the Second Supplemental Mt. Carmel Hospital Sublease, the Tax Compliance Agreement and the Bond Purchase Agreement, all as necessary to carry out and give effect to the transactions contemplated hereby and thereby.

Section 15. Effective Date. This Ordinance shall take effect and be in full force from and after its adoption by the governing body and publication once in the official newspaper of the Issuer.

*[Remainder of Page Intentionally Left Blank]*

PASSED AND APPROVED by the Governing Body of the City of Wichita, Kansas this 8<sup>th</sup> day of December, 2009.

CITY OF WICHITA, KANSAS

[seal]

By \_\_\_\_\_  
Carl Brewer, Mayor

ATTEST:

By \_\_\_\_\_  
Karen Sublett, City Clerk

APPROVED AS TO FORM:

By \_\_\_\_\_  
Gary E. Rebenstorf, City Attorney